Atty. Docket No.: 037003-0280732
Client Ref. No.: 2000-30-0261VUS

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re the Application of:
NABIL HANNA

Group Art Unit: 1642

Application No.: 09/986,174

Examiner: Misook Yu

Filed: November 7, 2001

Confirmation No.: 4956

For: BISPECIFIC FUSION PROTEIN AND METHOD OF USE FOR ENHANCING EFFECTOR CELL KILLING OF TARGET CELLS

Monday, August 30, 2004

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REPLY TO REQUIREMENT FOR RESTRICTION AND ELECTION

Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Sir:

This is in response to the requirement for restriction and election mailed July 28, 2004, and is timely filed.

ELECTION

In response to the requirement for restriction and election mailed July 28, 2004, the applicants elect **with traverse** Group 9, claims 16 and 17 in part, directed to a method of enhancing apoptosis by administering an immunoconjugate comprising an antibody or an immunogenic fragment thereof that binds to CD20.

In response to the requirement that the applicants elect a species of interferon alpha from the group listed in claim 4, the applicants elect IFN-α-2a.

In response to the requirement that the applicants elect a species of target cell from the group listed in claim 5, the applicants elect B-cell lymphoma cells.

The applicants respectfully traverse the division, for restriction purposes, of invention Group 9, claims 16 and 17, from claims 1-6 (in part), wherein the immunoconjugate comprises an antibody or an immunogenic fragment thereof that binds to CD20 and is fused at its C-terminus to IFN-α-2a, and wherein the target cells are cancer cells such as B-cell lymphoma cells as set forth in claim 5.

In examining the invention of Group 9, *e.g.*, with respect to patentability under 35 U.S.C. §103(a), the examiner is reasonably expected to identify and consider the available prior art relating to any therapeutic immunoconjugate of claims 1-4 and 6 that comprises an anti-CD20 antibody that is fused at its C-terminus to IFN-α-2a. Moreover, as the target cells of claim 17 that are elected are B-cell lymphoma cells, the examiner would particularly be expected to identify and consider the prior art relating to the immunoconjugate of elected Group 9, claim 17, wherein the target cells are cancer cells such as B-cell lymphoma cells as set forth in claim 5. The Manual of Patenting Examining Procedure (§ 803) states that if the search and examination [of an application] can be made without serious burden, the examiner must examine it on the merits, even though it includes claims directed to independent or distinct inventions. Since a search for prior art relating to the elected invention of Group 9, claims 16 and 17, would be expected to also identify the prior art relating to the immunoconjugate of claims 1-6, wherein the antibody is an anti-CD20 antibody, the cytokine is IFN-α-2a; and the target cells are cancer cells such as B-cell lymphoma cells, the search and examination of claims 1-6, directed to an immunoconjugate of the elected method of Group 9, would not impose additional burden on the examiner. The applicants therefore

respectfully request that the restriction between Group 9 and claims 1-6 be withdrawn, and that Group 9 be examined together with claims 1-6 (in part) for the disclosed invention wherein the antibody is an anti-CD20 antibody, the cytokine is IFN-α-2a; and the target cells are the cancer cells of claim 6; in particular, B-cell lymphoma cells.

If the examiner identifies any points that he feels may be best resolved through a personal or telephone interview, he is kindly requested to contact the undersigned attorney at the telephone number listed below.

No fee is believed to be due; however, the Commissioner is hereby authorized to charge any fee which should have been submitted with the present response to Deposit Account No. 033975 in the name of Pillsbury Winthrop, LLP.

Respectfully Submitted,
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